

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Comply with the
Mandates of Senate Bill 1563 Regarding
Deployment of Advanced Telecommunications
Technologies.

Rulemaking 03-04-003
(Filed April 3, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING RESPONDING TO
GREENLINING INSTITUTE AND LATINO ISSUES FORUM'S
NOTICE OF INTENT TO CLAIM COMPENSATION**

Summary

This ruling responds to the notice of intent (NOI) to claim compensation filed in this docket by Greenling Institute and Latino Issues Forum (LIF/Greenlining) pursuant to Public Utilities Code, Article 5, Section 1804. This ruling finds that LIF/Greenlining have met all requirements for a finding of eligibility for compensation in this proceeding.

In order to qualify for compensation, a party's efforts must not duplicate the work of other parties. A party seeking compensation must demonstrate that participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or Commission in resolving this proceeding.

Background

Section 1804(a)(1) provides that "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim

compensation.” LIF/Greenlining filed a NOI prior to a prehearing conference in this proceeding and it is therefore timely.

Section 1804(a)(2) sets forth those items that must be addressed in its NOI. The party must demonstrate that it is a customer, as defined in Section 1802(b) and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (Decision (D.) 98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship” to mean either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in

the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

LIF/Greenlining's NOI

Both LIF and Greenlining are 501(c)(3) organizations authorized by their bylaws to represent, among others, low-income communities and residential ratepayers before regulatory agencies and courts.¹ The interests that LIF/Greenlining represent low-income, minority and limited-English speaking communities, are frequently underrepresented in Commission proceedings. Greenlining meets the last definition of customer, as defined in Section 1802(b).

The economic interests of Greenlining's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of Greenlining's participation in Commission proceedings substantially outweighs the benefits to an individual customer it represents. Greenlining's members are customers whose individual interests in this proceeding are small relative to the costs of participation.

LIF/Greenlining's NOI states an intent to defer a showing of financial hardship until it seeks intervenor compensation. However, LIF/Greenlining does not need to make such a showing because D.02-07-030 found that LIF/Greenlining demonstrated significant financial hardship. This proceeding commenced within one year of that finding. Therefore, in accordance with

¹ Greenlining provided the relevant portions of the articles of incorporation of both LIF and Greenlining in its NOI in Application 98-12-005. LIF estimates that about 85% of its members are residential ratepayers, with 15% being small business customers. Greenlining estimates that about 75% of its members are residential ratepayers, with 25% being small business customers.

Section 1804(b)(1), we invoke a rebuttable presumption that LIF/Greenlining would experience significant financial hardship if it participated in this proceeding without compensation. A finding of significant financial hardship does not assure compensation (Section 1804(b)(2)).

Section 1804(a)(2)(A)(i) requires a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. LIF/Greenlining plans to focus its participation on issues relating to the provision of advanced technologies to vulnerable and low-income customers. Its notice refers to related jurisdictional issues, consumer information and outreach, preservation of Universal Lifeline Telephone Service discounts and funds and the impact of competition on service affordability.

Section 1804(a)(2)(A)(ii) requires an itemized estimate of the compensation the customer expects to receive. LIF/Greenlining estimate a budget of \$137,550 for this case, based on proposed hourly rates of several attorneys and experts.

IT IS RULED that:

Latino Issues Forum and Greenlining Institute (LIF/Greenlining) are customers as that term is defined in Section 1802(b) and have met the eligibility requirements of Section 1804(a), including a showing of significant financial hardship. LIF/Greenlining are eligible for compensation in this proceeding.

Dated August 28, 2003, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Responding to Greenlining Institute and Latino Issues Forum's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated August 28, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.